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13 UNITED STATES BANKRUPTCY COURT  
14  
15 EASTERN DISTRICT OF CALIFORNIA

16 In re	Bk. No. 09-45667-B-13
17 BRIAN D. BANCROFT AND	Motion No. PPR-1
18 MICHELLE J. BANCROFT	CHAPTER 13
19 Debtors	Hearing-
20	Date : July 6, 2010
21 JAN P. JOHNSON,	Time : 9:31 AM
22 Trustee,	Place : U.S. Bankruptcy Court
23	501 I Street
24	Sacramento, CA
25	Courtroom 32 Dept. B
26	Judge: Thomas C. Holman
27 _____ /	
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21 U.S. BANK, N.A., ITS SUCCESSORS AND/OR ASSIGNS'  
22 MOTION FOR RELIEF FROM AUTOMATIC STAY

23 U.S. Bank, N.A., its Successors and/or Assigns, a holder in due course, move the  
24 Court for relief from the Automatic Stay provided by 11 U.S.C. §362. This motion seeks an  
25 Order terminating the Automatic Stay of 11 U.S.C. §362 as to moving party (and the Trustee  
26 under the Deed of Trust securing moving party's claim) so that moving party (and its Trustee)  
27  
28

1 may commence and continue all acts necessary to foreclose under the Deed of Trust secured by  
2 Debtors' property.

3           This Motion is brought pursuant to 11 U.S.C. §362(d)(1) for “cause” and due to  
4 the failure of Debtors to make required payments as set forth in the attached Declaration of  
5 Olivia A. Todd and pursuant to 11 U.S.C. §362(d)(2) for no equity. Debtors' failure to make  
6 required payments provides “cause” for relief from the Automatic Stay in accordance with the  
7 ruling of the Bankruptcy Appellate Panel in In re: Ellis, 60 B.R. 432.

9           This Motion is being heard on 28-day notice, pursuant to LBR 9014-1(f)(1). Any  
10 opposition to this motion, if any, shall be in writing and shall be served and filed with the Court  
11 at least fourteen (14) calendar days preceding the date of hearing.

13           Failure of the responding party to appear or to timely file written opposition may  
14 be deemed a waiver of any opposition to the granting of the motion or may result in the  
15 imposition of sanctions, permitting the moving party to foreclose on the Debtors' property  
16 located at **5675 Twisted River Drive, Marysville, California** and thereafter take possession of  
17 the property.

19           In addition, and in the event that this Court continues the Automatic Stay,  
20 Movant will seek adequate protection of its secured interest pursuant to 11 U.S.C. §§ 361 and  
21 362, including a requirement that Debtors reinstate all past arrearages and immediately  
22 commence regular monthly payments.

24           Movant also seeks an Order terminating and vacating the Automatic Stay for all  
25 purposes as it pertains to Movant’s interest in the subject real Property, including the  
26 prosecution of appropriate foreclosure remedies, without the requirement of further notice or  
27 publication, except as may be required by state law.

1 Movant also seeks an Order waiving the 14-day stay as provided by Bankruptcy  
2 Rule 4001(a)(3).

3 In addition, Movant requests such further relief as is just.

4 This Motion is based on these moving papers, as well as the attached Declaration  
5 and the Relief from Stay Information Sheet, filed separately and concurrently with this Motion.  
6

7 In the event neither the Debtor, Debtor's counsel or Trustee files a timely  
8 opposition to this motion, the Court may grant relief from the Automatic Stay permitting  
9 moving party to foreclose on the Debtor's property located at **5675 Twisted River Drive,**  
10 **Marysville, California** and obtain possession of such property without conducting a hearing.  
11

12 WHEREFORE, Movant prays judgment as follows:

13 1.) For an Order granting relief from the Automatic Stay, permitting this Movant  
14 to move ahead with foreclosure proceedings under Movant's Deed of Trust.

15 2.) For such Order regarding adequate protection of Movant's interest as this  
16 Court deems proper.

17 3.) For an Order waiving the 14-day stay described by Bankruptcy Rule  
18 4001(a)(3).

19 4.) For such other relief as this Court deems appropriate.

20 DATED: May 21, 2010

21 PROBER & RAPHAEL  
22 A LAW CORPORATION

23 /s/ CASSANDRA J. RICHEY, ESQ. #155721  
24 Attorney for Secured Creditor  
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